

---

---

**Report to  
The Vermont Legislature**

---

---

**Report by Committee to Study  
Jurisdiction Over  
Proceedings on Minor Guardianship**

**In Accordance with Act 56 (H.264) Section 23  
Of the 2011 Vermont Legislature**

**Submitted to:** House Human Services Committee  
House Judiciary Committee  
Senate Health & Welfare Committee  
Senate Judiciary Committee

**Submitted by:** David Yacovone  
Commissioner, Department for Children & Families

**Prepared by:** Cynthia K. Walcott  
Deputy Commissioner for Family Services

**Report Date:** January 25, 2012



**AGENCY OF HUMAN SERVICES  
Department for Children & Families**

## **Report to the Vermont Legislature by the Committee to Study Jurisdiction Over Proceedings on Minor Guardianship**

Section 23 of H.264, passed by the 2011 Vermont Legislature, established a committee to study jurisdiction over proceedings on minor guardianship. A report was due on January 12, 2012. The study committee proposes to submit this preliminary report, with a more comprehensive report and set of recommendations by January 12, 2013. The committee is asking that the committees of jurisdiction support this approach, which the committee believes will be in the best interest of the children and families involved presently, and in the future.

The Commissioner of the Department for Children and Families (DCF) was asked to convene the first meeting. The charge was to study issues, including the following:

- (1) the circumstances under which it is appropriate to transfer minor guardianship proceedings between the probate and family divisions, including which division should have authority to order the transfer and the criteria which should govern whether the transfer should proceed;
- (2) the involvement of the DCF in open cases in the Family Services Division when a Children in Need of Supervision (CHINS) proceeding has not been filed;
- (3) the unofficial involvement of the DCF in minor guardianship proceedings in the probate division;
- (4) whether the probate division should have the authority to make the DCF a party to minor guardianship proceedings in the probate division instead of transferring the proceeding to the Family Services Division; and
- (5) whether and which substantive, procedural, or jurisdictional changes to minor guardianship proceedings would best serve the interests of children.

The following are members serving on the committee:

Trine Bech - Executive Director, Vermont Parent Representation Center  
Hon. George Belcher - Judge, Washington Probate Court  
Betsy Blackshaw – attorney appointed by the Vermont Bar Association  
Judi Daly – social worker for Casey Family Services  
Hon. Amy Davenport – Administrative Judge for the Vermont Trial Courts  
Lynn Granger - Vermont Kin as Parents  
Robert Sheil - Juvenile Defender  
William Sullivan – Guardian ad Litem, Addison County  
Cynthia Walcott – DCF Deputy Commissioner, Family Services Division

Unfortunately, Tropical Storm Irene interfered with an early convening of this committee. On behalf of DCF Commissioner Yacovone, DCF Deputy Commissioner Cynthia Walcott of the Family Services Division convened the first meeting of the committee on October 13, 2011. At that meeting, the committee discussed the charge to the group, and an approach to the work. The committee next convened for a full day on October 28, 2011. At that meeting, the committee concluded that it could not do justice to the charge before January 12, 2012. The committee subsequently met for two half-day meetings, on December 1 and 19, 2011, and has committed to ongoing meetings over the next year. These are complex issues, not lending themselves to superficial analysis.

To date, the committee has completed the following activities:

- Reviewed the charge to the study committee in detail, in order to gain a mutual understanding of the scope of the work.
- Discussed how it would conduct business and make decisions.
- Reviewed and discussed a paper by Hon. George Belcher, probate judge, entitled *A General Description of the Minor Guardianship System in Vermont*, which was prepared in September 2011 to educate study committee members about the types of probate guardianships that can be created under the minor guardianship statute, and some of the differences between these proceedings and juvenile court proceedings.
- Reviewed and discussed a paper prepared by the Children's Law Center of Massachusetts in 2008, entitled *Protecting Children, A Study of the Nature and Management of Guardianship of Minor Cases in Massachusetts Probate and Family Court*. This paper discusses many issues that Vermont is grappling with.
- Reviewed and discussed a paper prepared by Julia Zalenski, second year law student who served as a legal intern with the Vermont Parent Representation Center in 2011, entitled *Minor Guardianships Created by the Probate Court When the Department for Children and Families is Involved: Presentation of the Problems and Possible Solutions*.
- Heard and discussed a presentation by Lynda Schoenbeck, social worker for Vermont Parent Representation Center, describing the experiences of several parents who have experienced the minor guardianship system.
- Heard an interim report by Joan Vance, UVM Extension Service, on her 2011 study on the experiences of relatives who obtain custody of a child through a juvenile court proceeding.
- Reviewed and discussed the flow of probate court proceedings, including how they are similar and different from juvenile proceedings.
- Reviewed and discussed DCF's differential response system, including standardized safety and risk tools used by DCF Family Services' social workers.
- Committed to at least monthly meetings in 2012.

It is the committee's intent to make a comprehensive set of recommendations to the Vermont General Assembly by January 2013. The committee will recommend specific revisions to the statutes governing probate minor guardianship proceedings, and the statutes governing juvenile court proceedings, to the extent necessary to ensure a good fit between probate and guardianship proceedings. In recommending revisions, the committee will address the study issues #1 - 5 listed above, as well as other related issues.

Therefore, the committee requests that the General Assembly renew its charge to the committee, authorize it to continue work throughout 2012, and set a new due date for its report, in January 2013.